

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

CHARLES PAUL ELWELL,)	
)	
<i>Plaintiff</i>)	
)	
v.)	<i>No. 2:21-cv-00160-LEW</i>
)	
SOUTH PORTLAND POLICE et al,)	
)	
<i>Defendants</i>)	

RECOMMENDED DISMISSAL

Pro se plaintiff Charles Paul Elwell filed his complaint on June 15, 2021. *See* Complaint (ECF No. 1). More than 90 days later, on September 14, 2021, the court entered an order to show cause noting that Elwell had yet to serve the defendants and ordering him “show good cause in writing no later than September 28, 2021 why such service was not timely made.” Order to Show Cause (ECF No. 7). The court warned Elwell that his case would be dismissed if he failed to do so. *See id.* Elwell received notice of the court’s order to show cause by email but did not respond by the deadline; nor has he responded since the deadline elapsed.

Elwell’s failure to timely serve the defendants and/or respond to the court’s order to show cause why such service could not be made warrants the dismissal of his action. *See* Fed. R. Civ. P. 4(m) (“If a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – *must* dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.” (emphasis added)); *see also* *Díaz-Santos v. Dep’t of Educ. of the Commonwealth of P.R.*, 108 F. App’x 638, 640 (1st Cir. 2004) (noting that a district court has the inherent power to dismiss

a suit for failure to prosecute). Elwell's status as an unrepresented litigant does not excuse these failures. *See, e.g., United States v. Edmunds*, Case No. 15-cv-2705 (JRT/TNL), 2016 WL 7670605, at *5 (D. Minn. Dec. 6, 2016) (rec. dec. *aff'd* Jan. 10, 2017) (“[W]hile pro se litigants are accorded a certain degree of latitude, [a party’s] pro se status does not excuse him from complying with this Court’s orders as well as the Federal Rules of Civil Procedure and the Court’s Local Rules.”).

Accordingly, I recommend that this case be **DISMISSED** without prejudice.

NOTICE

In accordance with Federal Rule of Civil Procedure 72(a), a party may serve and file an objection to this order within fourteen (14) days after being served with a copy thereof.

Failure to file a timely objection shall constitute a waiver of the right to review by the district court and to any further appeal of this order.

Dated this 31st day of October, 2021.

/s/ John H. Rich III
John H. Rich III
United States Magistrate Judge